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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/602,561

06/24/2003

Anthony Wong

20341-72037

1684

23643

7590

03/16/2005

BARNES & THORNBURG
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EXAMINER

JAGAN, MIRELLYS

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,561	Applicant(s) WONG ET AL.	
	Examiner Mirellys Jagan	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 17-20 and 22-30 is/are allowed.
- 6) ☒ Claim(s) 16 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 61296226 to Abe et al [hereinafter Abe] in view of U.S. Patent 5,013,161 to Zaragoza et al [hereinafter Zaragoza].

Abe discloses a thermometer assembly comprising:

a thermometer portion (2) including a probe and a housing coupled to the probe;

a cover portion (3) coupled to the portion (2); and

means (cut-out in 3) for mounting the portion (2) to the cover portion (3) for sliding movement of the thermometer portion (2) relative to the cover portion (3) (2 slides into 3) between a locked position (figure 6b) that prevents the thermometer portion (2) from pivoting relative to the cover portion (3), and an unlocked position (figure 6c) that permits the thermometer portion (2) to pivot relative to the cover portion (3) about a pivot axis (2 is flipped over about an axis from figure 6c to figure 6d) to assume a use position (figure 6e) wherein the probe is removed from a stowed position inside the cover portion (3);

wherein the cover portion (3) includes a front and rear wall integrally coupled together and formed to define the cut-out, the thermometer portion (2) being pivotally movable relative to

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the cover portion (3) between a use position (e.g., figure 6e) where the probe of the thermometer portion extends away from the cover portion (3), and a stowed position where the probe of the thermometer portion is received within the cut-out (e.g., figure 6b).

Abe does not disclose the probe being flexible, i.e., having a flexible tip portion.

Zaragoza discloses a thermometer comprising a probe and a housing coupled to the probe, wherein the probe has a flexible tip portion. Zaragoza teaches that it is useful to provide a flexible tip portion for the probe in order to make the probe more comfortable for a person to use when taking temperature measurements (see column 6, lines 44-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the probe of Abe by making the probe having a flexible tip, as taught by Zaragoza, in order to make the probe more comfortable for a person to use when taking temperature measurements.

Allowable Subject Matter

3. Claims 1-15, 17-20, 22-30 are allowed.

4. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose or suggest the following in combination with the remaining limitations of the claims:

An infant thermometer assembly comprising:

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a cover portion including a cavity formed to receive at least a portion of the housing when the probe is in the use and stowed positions and a cut-out formed to receive the probe of the thermometer portion in the stowed position (see claim 1); or

a thermometer portion including a probe having a flexible tip portion and a housing coupled to the probe, and a cover portion pivotable, fixedly, and slidably coupled to the thermometer portion (see claim 23).

The Examiner's statement of reasons for allowance for claims 2-15, 17-20, 22, and 24-30 is stated in the last Office action, dated 10/20/04.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

5. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

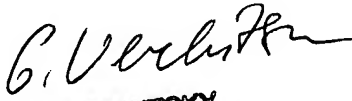
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 11AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
March 9, 2005


GAIL VERBITSKY
PRIMARY EXAMINER